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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,749	02/22/2006	Lamson Nguyen	102792-133 (11256P3 US)	8449
27389	7590	02/19/2010	EXAMINER	
PARFOMAK, ANDREW N. NORRIS MC LAUGHLIN & MARCUS PA 875 THIRD AVE, 8TH FLOOR NEW YORK, NY 10022			NGUYEN, TUAN N	
		ART UNIT	PAPER NUMBER	
		3751		
		MAIL DATE	DELIVERY MODE	
		02/19/2010	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/561,749	NGUYEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tuan N. Nguyen	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 October 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8 and 10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8 and 10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/21/05</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species 3: Fig. 6 in the reply filed on 10/16/09 is acknowledged. The traversal is on the ground(s) that the species share a common technical nexus. This is not found persuasive because since the common technical feature is not allowable over the prior art.

The requirement is still deemed proper and is therefore made FINAL.

### ***Information Disclosure Statement***

2. One of the non-patent literature document on the IDS filed 12/21/05 is crossed out and has not been considered since the listing of that particular reference is missing a date.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, it is unclear as to the meet and bound of the "other sanitary appliance" in lines 1-2. Furthermore, it is unclear as to whether or not the limitations after the word "useful in conjunction" are part of the claim limitation. Regarding claim 10, this is an improper and unclear process since it is "contemplates providing a device" as states in lines 2-3. It is unclear as to whether the

device of claim 1 is part of the process or it is an option. The claims are being examined as best understood.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,670,916 (hereinafter Bloom) in view of GB 2329399 (hereinafter Lhoste) and WO 03/042462 (hereinafter Bariou).

Bloom discloses a device useful in conjunction with a toilet bowl 13 or other sanitary appliance, which device provide for the delivery of a treatment composition (column 1, lines 7-10), which contains one or more active agents such as coloring agent, cleaning agent and/or an anti-lime scale agent or a mixture of these agents, while simultaneously providing a fragrance effect to the ambient environment of the sanitary appliance as well, wherein the device includes a first dispenser 11 for containing a treatment composition, a second dispenser 11 for containing a fragrance composition, which, during the use of the device, the fragrance composition desirably does not contact water in the sanitary appliance, a hanger 40 connecting the first dispenser to the second dispenser, which hanger is adapted for removably hanging the device upon a portion of a sanitary appliance. Instead of having the fluid disinfectant as shown in Fig. 8 of Bloom, one of ordinary skill in the art at the time the invention was made to substitute an

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equivalent solid disinfectant as taught by Lhoste. Moreover, the spray fragrance as shown in Fig. 8 of Bloom can obviously be substitute by an equivalent solid fragrance (13) within into a cavity as taught by Bariou. This modification is mere simple substitution of one known element for another to obtain similar predictable results.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leonard et al. discloses a dual dispenser similar to the instant invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan N Nguyen/  
Primary Examiner, Art Unit 3751

TN